

U.S. Department of Energy
Washington, D.C.

ORDER

DOE 2200.11

Approved: 02-12-88

This directive was reviewed and certified as current and necessary by (Enter Name), (Enter Title)
Director, Office of Management, Budget and Evaluation/Chief Financial Officer, XX-XX-XXXX.

SUBJECT: PROCESSING GARNISHMENT ORDERS FOR CHILD SUPPORT AND/OR
ALIMONY

1. PURPOSE. To prescribe the procedures for collecting from an employee's remuneration those amounts subject to legal process brought for the enforcement of the employee's legal obligations to provide child support and/or make alimony payments.
2. REFERENCES.
 - a. Title 5 Code of Federal Regulations (CFR) 581, "Processing Garnishment Orders for Child Support and/or Alimony," which implements Title 42 United States Code (U.S.C.) 659, as amended.
 - b. Title 15 U.S.C. 1673, as amended, which provides restrictions on the maximum part of the aggregate disposable earnings which is subject to garnishment.
 - c. Title 42 U.S.C. 659, 661-62, as amended, which provide that moneys, the entitlement to which is based upon remuneration for employment, due from or payable by the United States or the District of Columbia to any individual, shall be subject, as if the United States or the District of Columbia were a private person, to legal process brought for the enforcement of such individual's legal obligation to provide child support and/or make alimony payments.
 - d. Executive Order 12105, which requires appropriate officials of the executive branch of the Federal Government to issue rules, regulations, and directives to implement the regulations of the Office of Personnel Management.
3. DEFINITIONS.
 - a. Alimony is a periodic payment of funds for the support and maintenance of a spouse or former spouse and, subject to and in accordance with State or local law, includes but is not limited to separate maintenance, alimony pendente lite (an allowance made pending a suit for divorce or separate maintenance, including a reasonable allowance for preparation of the suit as well as for support), maintenance, and spousal support. Alimony also includes attorney fees, interest, and court costs, if they are expressly made recoverable under a decree, order, or judgment issued in accordance with applicable State or local law by a court of competent jurisdiction.

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Office of the Controller

- b. Child Support is a periodic payment of funds for the support and maintenance of a child or children and, subject to and in accordance with State or local law, includes but is not limited to payments to provide for health care, education, recreation, clothing, or other specific needs of such child or children; the term also includes attorney fees, interest, and court costs, if they are expressly made recoverable under a decree, order, or judgment issued in accordance with applicable State or local law by a court of competent jurisdiction.
- c. Designated Agent is a Department of Energy (DOE) employee who is authorized by DOE to receive legal process from a court of competent jurisdiction, identify the named obligor, and suspend payment of moneys necessary to comply with the legal process.
- d. Garnishee is a person against whom process of garnishment is issued.
- e. Garnishment is a statutory proceeding whereby an employee's property, money, or credits in the possession of, under the control of, or owing by DOE, are applied to payment of the employee's debt to a third person by proper statutory process against debtor and garnishee.
- f. Garnishor is a person in whose behalf the process of garnishment is issued and proper service of legal process is performed.
- g. Interrogatories are written questions drawn up for the purpose of being propounded to a party, witness, or other persons having information of interest in the case.
- h. Legal Obligation is an obligation to pay alimony and/or child support that is enforceable under appropriate State or local law.
- i. Legal Process is any writ, order, summons, or other similar process in the nature of garnishment, which may include an attachment, writ of execution, or court-ordered wage assignment, which:

(1) Is issued by:

- (a) A court of competent jurisdiction, including Indian tribal courts, within any State, territory, or possession of the United States, or the District of Columbia;
- (b) A court of competent jurisdiction in any foreign country with which the United States has entered into an agreement that requires the United States to honor such process; or
- (c) An authorized official pursuant to an order of a court of competent jurisdiction or pursuant to State or local law.

(2) Is directed to, and the purpose of which is to compel, a governmental entity, to make a payment from moneys otherwise payable to an individual, to another party; to satisfy a legal obligation of the individual to provide child support and/or make alimony payments.

- j. Legal Process Regular on Its Face is a process, legal in form, from a court, an officer, or any body having authority of law to issue such a process, and that contains nothing to notify or fairly apprise anyone that it is issued without authority.
- k. Obliger is an individual having a legal obligation to pay alimony and/or child support.
- l. Remuneration is compensation paid or payable to an employee for personal services, whether such compensation is denominated as wages, salary, commission, bonus pay, or otherwise, and is included in but not limited to those items set forth in 5 CFR 581.103.
- m. Service is the serving of a writ or summons.

4. LIMITATIONS.

- a. Moneys due the individual employee which are not subject to garnishment are:
 - (1) Payments made pursuant to provisions of Title 28 U.S.C., The Federal Tort Claims Act, sections 1346(b) and 2671, et seq.;
 - (2) Refunds and other payments made in connection with overpayments or erroneous payments of income tax and other taxes levied under Title 26 U.S.C.;
 - (3) Grants;
 - (4) Fellowships;
 - (5) Contracts, except where the contractor recipient performed personal services and received payments in his or her capacity as an employee of a governmental entity; and
 - (6) Reimbursement for expenses incurred by an individual in connection with his or her employment, or allowances in lieu thereof, and other payments and allowances, including, but not limited to:
 - (a) Uniform allowances;
 - (b) Travel and transportation expenses (including mileage allowances);

- (c) Relocation expenses;
 - (d) Storage expenses;
 - (e) Post differentials;
 - (f) Foreign areas allowances;
 - (g) Education allowances for dependents;
 - (h) Separate maintenance allowances;
 - (i) Post allowances and supplementary post allowances;
 - (j) Home service transfer allowances;
 - (k) Quarters allowances;
 - (l) Cost-of-living allowances (COLA's), when applicable to an employee in a foreign area or any employee stationed outside the continental United States or in Alaska;
 - (m) Remote worksite allowances; and
 - (n) Per diem allowances.
- b. Moneys due a deceased employee obligor are not subject to garnishment where the amounts are (5 CFR 581.104(i)):
- (1) Reimbursement for expenses incurred by the deceased employee in connection with his or her employment, or allowances in lieu thereof, including:
 - (a) Per diem instead of subsistence, mileage, and amounts due in reimbursement of travel expenses, including incidental and miscellaneous expenses in connection therewith;
 - (b) Allowances on change of official station;
 - (c) Quarters allowances; and
 - (d) COLA's, when applicable as a result of the deceased employee obligor's having been in a foreign area or stationed outside the continental United States or in Alaska.
 - (2) Amounts due for payment of cash awards for employees' suggestions.

- c. Exclusions to be made when determining the amount of any moneys due from or payable by DOE to any employee shall be those amounts which (5 CFR 581.105):
- (1) Are owed by the employee to the United States except where the obligor's debt is for child support and the amount owed the United States results from income tax lien or levy under Title 26 U.S.C. 6331;
 - (2) Are required by law to be deducted from the remuneration or other payment involved, such as Social Security and Medicare taxes.
 - (3) Are properly withheld for Federal, State, or local income tax purposes, if the withholding of the amounts is authorized or required by law, and if amounts withheld are not greater than would be the case if the employee claimed all dependents to which he or she was entitled. The withholding of Additional amounts pursuant to Title 26 U.S.C. 3402(i) may be permitted only when the individual presents evidence of a tax obligation which supports the additional withholding;
 - (4) Are deducted as health insurance premiums;
 - (5) Are deducted as normal retirement contributions, not including amounts deducted for supplementary coverage. Amounts contributed under Title 5 U.S.C. 8351 and 8432(a) to the Thrift Savings Fund are deemed to be normal retirement contributions. Amounts voluntarily contributed toward additional civil service annuity benefits are considered to be supplementary; or
 - (6) Are deducted as normal life insurance premiums from salary or other remuneration for employment, not including amounts deducted for supplementary coverage. "Basic life" Federal Employees' Group Life insurance premiums are considered to be normal life insurance premiums: all optional Federal Employees' Group Life Insurance premiums and life insurance premiums paid for by allotment are considered to be supplementary.
- d. Payments of DOE which may be due and payable to an employee at some future date shall not be considered due unless and until all of the conditions necessary for payment of the moneys to the employee have been met, including, but not limited to, the following conditions which might apply:
- (1) Retirement;
 - (2) Resignation; or
 - (3) Application for payment of moneys by the individual.

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5. CONSUMER CREDIT PROTECTION ACT RESTRICTIONS.

a. Aggregate Disposable Earnings. The aggregate disposable earnings, when used in reference to those amounts due from or payable by the United States or the District of Columbia which are garnishable under the Consumer Credit Protection Act for child support and/or alimony, are the obligor's remuneration for employment less those amounts deducted in accordance with paragraph 4c, above.

b. Maximum Garnishment Limitations.

(1) Pursuant to Title 15 U.S.C. 1673(b)(2)(A) and (B), The Consumer Credit Protection Act, as amended, unless a lower maximum garnishment limitation is provided by applicable State or local law, the maximum part of the aggregate disposable earnings subject to garnishment to enforce any support order(s) shall not exceed:

(a) Fifty percent of the obligor's aggregate disposable earnings for any workweek, where the obligor asserts by affidavit or by other acceptable evidence that he or she is supporting a spouse and/or dependent child other than the former spouse and/or child for whose support such order is issued. An additional 5 percent will be withheld when the legal process appears on its face to be brought for the enforcement of a support order for a period which is 12 weeks in arrears; or when a certified copy of a support order, or other evidence acceptable to the designated agent establishing this fact, is submitted.

(b) Sixty percent of the obligor's aggregate disposable earnings for any workweek, where the obligor fails to assert by affidavit or to establish by other acceptable evidence that he or she is supporting a spouse and/or dependent child other than a former spouse and/or child with respect to whose support such order is issued. An additional 5 percent will be withheld if it appears on the face of the legal process, or from other evidence submitted (see page 8, paragraph 6b(6)), that such earnings are to enforce a support order which is 12 weeks in arrears.

(2) **Where** an obligor submits evidence that he or she is supporting a second spouse and/or child, copies of the evidence shall be sent by the designated agent to the garnishor or the garnishor's representative, as well as to the court or other authority, together with notification that the obligor's support claim will be honored.

6. RESPONSIBILITIES.

a. The Controller shall:

- (1) Designate agents to accept service of legal process.
- (2) Submit, to the Office of General Counsel of the Office of Personnel Management, the following information concerning the designated agents to accept service of legal process:
 - (a) Title;
 - (b) Mailing address;
 - (c) Telephone number; and
 - (d) Geographical area or region, if applicable.
- (3) Make every reasonable effort to assure that legal processes maybe validly served on its designated agent(s).

b. Designated Agents shall:

- (1) Receive by certified or registered mail, return receipt requested, or by personal service, the legal process which names DOE as the garnishee.
- (2) Note the date and time of receipt on the legal process.
- (3) Assure that sufficient identifying information accompanies the legal process in order to enable processing. The following information about the obligor, if known, must be provided:
 - (a) Full name;
 - (b) Date of birth;
 - (c) Employment number or Social Security number; and
 - (d) DOE office in which the obligor works.
- (4) Return the legal process directly to the court or other authority, with an explanation of the deficiency, if the information submitted is not sufficient to identify the obligor. However, prior to returning the legal process, if there is sufficient time, an attempt should be made to inform the party who caused legal process to be served, or the party's representative, that it will not be honored unless adequate information is supplied.

- (5) Require a certified copy of the court order or other document establishing such legal obligation(s) defined on pages 1 and/or 2, paragraphs 3a and/or b, where it does not appear from the face of the process that it has been brought to enforce the legal obligation(s).
- (6) Require such other documentation establishing that the legal process was brought to enforce legal obligation(s) defined in paragraphs 3a and/or b on pages 1 and/or 2, where State or local law provides for the issuance of legal process without a support order.
- (7) Forward the legal process to the Office of General Counsel for Headquarters employees or the Office of General Counsel for Bonneville Power Administration employees, as appropriate, for review and concurrence if there is any doubt as to the authenticity of the legal process (e.g., the legal process or related documentation received is not stamped with the applicable State or local seal).
- (8) Withhold and provide an additional 5 percent as provided on page 6, paragraph 5b(1) to the party who caused the legal process to be served when the legal process appears on its face to be brought for the enforcement of a support order for a period which is 12 weeks in arrears; or when a certified copy of a support order, or other evidence acceptable to the designated agent establishing this fact, is submitted.
- (9) Respond to a validly served legal process and any interrogatories accompanying it within 30 calendar days after receipt, or within such longer period as may be prescribed by applicable State or local law.
- (10) If State or local law authorizes the issuance of interrogatories prior to or after the issuance of a legal process, respond to the interrogatories within 30 calendar days after receipt, provided that the document(s) required by paragraph 6b(5) have been presented.
- (11) Return the legal process if it is determined that the individual it identifies as the obligor is not found to be entitled to the moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, DOE as set forth in the legal process for this contingency. If no procedures are set forth therein, return the legal process to the court or other authority from which it was issued, and advise the court or other authority that no moneys are due from, or payable by, the DOE to the named individual.
- (12) Advise the court or other authority when- it appears that the remuneration for employment is only temporarily exhausted or otherwise unavailable, explaining fully why and for how long the remuneration for employment will be unavailable if that information is known by DOE.

- (13) Inform the party who caused the legal process to be served, or the party's representative, and the court or other authority, when payments are to be discontinued because an employee is to separate from his or her employment with DOE. In cases where the obligor has either retired; separated and requested a refund of retirement contributions; is receiving a refund of retirement contributions; transferred; or is receiving benefits under the Federal Employees' Compensation Act; and where this Information is known by DOE, provide the party with the designated agent for the new disbursing governmental entity. If the employee obligor will be employed in the private sector and DOE knows the name and/or address of the new employer, DOE will provide the party with this information.

c. The Deputy General Counsel for Legal Services (GC-40) at Headquarters and the General Counsel at Bonneville Power Administration shall:

- (1) Review and provide guidance on legal processes whenever this service is requested by their respective designated agents; and
- (2) Initiate any legal action required under any of the legal contingencies listed in paragraph 7d, below, of this Order.

7. COMPLIANCE WITH PROCESS.

- a. Suspension of Pay. Upon proper service of a legal process, together with all supplementary documents and information as required (see pages 7 and 8, paragraphs 5b(3), (5), and (6)), the designated agent shall identify the obligor to whom moneys are due and payable as remuneration for employment, and shall suspend (withhold) payment of such moneys for the amount necessary to permit compliance with the legal process.

b. Notification of Obligor.

- (1) As soon as possible and not more than 15 calendar days after the date of valid service of legal process, the designated agent shall send to the obligor, at his or her duty station or last known home address, written notice:
- (a) That such process has been served, including a copy of the legal process, and, if submitted, such other documents as may be required by paragraphs 6b(5), (6), and (8), above;
- (b) Of the maximum garnishment limitations set forth on page 6, paragraph 5b, above, with a request that the obligor submit supporting affidavits or other documentation necessary for determining the applicable percentage limitation;
- (c) That by submitting supporting affidavits or other necessary documentation, the obligor consents to the disclosure of such information to the garnisher; and

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- (d) Of the percentage that will be deducted if he or she fails to submit the documentation necessary to enable DOE to respond to the legal process within the time limits set forth on page 8, paragraph 6b(9).
- (2) The designated agent may provide the obligor with the following additional information:
 - (a) That DOE does not represent the interests of the obligor in the pending legal proceedings;
 - (b) That the obligor may wish to consult legal counsel regarding any defenses to the legal process that he or she may wish to assert; and
 - (c) Copies of any other documents submitted in support of the legal process.
- c. Nonliability for Disclosure.
 - (1) No Federal employee whose duties include responding to interrogatories pursuant to page 8, paragraphs 6b(9) and (10), shall be subject to any disciplinary action or civil or criminal liability or penalty for any disclosure of Information made by him or her in connection with the carrying out of any duties pertaining directly or indirectly to answering such interrogatories.
 - (2) However, DOE would not be precluded from taking disciplinary action against an employee who consistently or purposely failed to provide correct information requested by interrogatories.
- d. Honoring Legal Process.
 - (1) DOE shall comply with legal process, except where the process cannot be complied with because:
 - (a) It does not, on its face, conform to the laws of jurisdiction from which it was issued;
 - (b) The legal process would require the withholding of funds not deemed moneys due from or payable by DOE as remuneration for employment;
 - (c) The legal process is not brought to enforce legal obligation(s) for alimony and/or child support;
 - (d) It does not comply with the mandatory provisions of this Order;

- (e) An order of a court of competent jurisdiction enjoining or suspending the operation of the legal process has been served on DOE; or
 - (f) Where notice is received that the obligor has appealed either the legal process or the underlying alimony and/or child support order, payment of moneys subject to the legal process shall be suspended, i.e., moneys shall continue to be withheld from the employee, but these amounts shall be retained by DOE until ordered by the court or other authority to resume payments or otherwise disburse the suspended amounts. However, no suspension action shall be taken where the applicable law of the jurisdiction wherein the appeal is filed requires compliance with the legal process while an appeal is pending. Where the legal process has been issued by a court in the District of Columbia, a motion to quash shall be deemed equivalent to an appeal.
- (2) Before complying with the legal process that requires withholding for the payment of attorney fees, interest, and/or court costs, DOE must determine that the legal process meets both of the following requirements:
- (a) The legal process must expressly provide for inclusion of attorney fees, interest, and/or court costs as (rather than in addition to) child support and/or alimony payments; and
 - (b) The awarding of attorney fees, interest, and/or court costs as child support and/or alimony must be within the authority of the court, authorized official, or authorized State agency that issued the legal process. It will be deemed to be within the authority of the court, authorized official, or authorized State agency to award attorney fees as child support and/or alimony if such order is not in violation of or inconsistent with State or local law, even if State or local law does not expressly provide for such an award.
- (3) Under the circumstances set forth in paragraph 7d(1), above or where DOE is directed by the Justice Department not to comply with the legal process, DOE shall respond directly to the court or other authority, setting forth its objections to compliance with the legal process. In addition, DOE shall inform the garnishor, or the garnishor's representative, that the legal process will not be honored. Thereafter, if litigation is initiated or threatened, DOE shall immediately refer the matter to the United States Attorney for the district from which the legal process was issued.

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- (4) In the event that DOE is served with more than one legal process for the same moneys due or payable to an individual, then the moneys shall be available to satisfy such processes on a firstcome, firstserved basis; provided that in no event will the total amount garnished for any pay or disbursement cycle exceed the applicable limitation set forth on page 6, paragraph 5b.
- (5) DOE shall not be liable for any payment made from moneys due from or payable by DOE to any individual pursuant to legal process regular on its face, if such payment is made in accordance with this Order and 5 CFR 581. However, where DOE negligently fails to comply with the legal process, DOE shall be liable for the amount that DOE would have paid if the legal process had been properly honored.
- (6) DOE shall not vary its normal pay or disbursement cycles to comply with the legal process. However, a legal process, valid at the time of service, which is received too late to be honored during the disbursement cycle in which it is received shall be honored to the extent that it may be satisfied during the next disbursement cycle within the maximum limit set forth on page 6, paragraph 5b and 5 CFR 581.402. The fact that the legal process may have expired during this period would not relieve DOE of its obligation to honor a legal process which was valid at the time of service. If, in the next disbursement cycle, no further payment will be due from DOE to the obligor, DOE shall follow the procedures set forth on pages 8 and 9, paragraphs 6b(11), (12), and (13).
- (7) If DOE receives a legal process which on its face appears to conform to the laws of the jurisdiction from which it was issued, DOE shall not be required to ascertain whether the authority which issued the legal process had obtained personal jurisdiction over the obligor.
- (8) A failure by the party bringing the garnishment action to comply with the provisions of the Uniform Reciprocal Enforcement of Support Act or the Revised Uniform Reciprocal Enforcement of Support Act shall not, by itself, be a valid basis for DOE to refuse to comply with a legal process.

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